

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

JOHN P. ALLISON,

Petitioner,

v.

ACTION NO. 2:15cv273

HAROLD W. CLARKE, Director,  
Virginia Department of Corrections,

Respondent.

FINAL ORDER

Before the Court is a Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254, ECF No. 1, and the Respondent's Motion to Dismiss the Petition, ECF No. 13. In his Petition, the pro se Petitioner alleges violations of his constitutional rights in relation to his probation revocation hearing in the Circuit Court for the City of Virginia Beach on March 13, 2013, whereat the court revoked Petitioner's suspended sentences for his 1995 and 2003 convictions for four counts of grand larceny and one count of attempted malicious wounding. Commonwealth v. Allison, Nos. CR94002874-01, CR94002874-02. CR94002874-03, CR94002874-04 (Va. Cir. Ct. Jan. 4, 1995). The court sentenced Petitioner to eighteen years in the Virginia state penitentiary, but suspended nine of those years. *Id.*

The Petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions

of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation filed on February 29, 2016, recommends dismissal of the Petition with prejudice. ECF No. 19. On March 14, 2016, the Petitioner timely filed objections to the Report and Recommendation. ECF No. 20. The Respondent did not respond to the Petitioner's objections and the time to do so has expired.


The Court, having reviewed the record and examined the objections filed by Petitioner to the Report and Recommendation, and having made de novo findings with respect to the portions objected to, does hereby **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation filed February 29, 2016. It is, therefore, **ORDERED** that the Respondent's Motion to Dismiss, ECF No. 13, be **GRANTED**, and that the Petition, ECF No. 1, be **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that judgment be entered in favor of the Respondent.

The Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment.

The Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right, and therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for the Respondent.

It is so ORDERED.

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/s/  
Rebecca Beach Smith  
Chief Judge   
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REBECCA BEACH SMITH  
CHIEF UNITED STATES DISTRICT JUDGE

May 27, 2016